

the 10-day notice period for the April 15, 2008 meeting. The notice was sent out on April 22, 2008 and published in the Everett Herald on April 25, 2008 to hold a public hearing on May 6, 2008.

The Washington State Department of Community Trade and Economic Development (CTED) has reviewed this proposed amendment.

The Planning Board held a public hearing on May 6, 2008. There was no public comment, and the Board voted unanimously to recommend the proposed amendment to the City Council.

Council held a public hearing on July 10, 2008. Since the Council held its hearing, the city attorney recognized conflicts with the Planning Board (Commission) taking action on revocation, bonding, and resubmittal of conditional use applications.

Staff review prior to forwarding to Council indicated several additional items needing amendment. To provide abundant opportunity for public involvement, the notices were run again, and the Planning Board conducted public hearings on the new versions of these amendments at the regular meeting of August 5, 2008.

The Planning Board conducted an additional public hearing on the final draft of these proposed amendments at its regular meeting of August 5. The Board made a motion to forward the proposed Ordinance 983.08 (Attachment A) to the City Council with a recommendation for approval.

SUMMARY:

The City is looking to: place the Conditional Use application fee in the Fee Schedule along with other land use processing fees; clarify roles of the Hearing Examiner and City Council in processing of such applications; and remove the Planning Commission (Board) from the process for these quasi-judicial procedures.

To provide for ample public input opportunity, council is requested to conduct another public hearing to review additional changes that were brought to the fore by the city attorney since the last hearing.

RECOMMENDATION:

Conduct a public hearing to:

1. Amend the Sultan Municipal Code 21.04.030 by removing the \$850.00 required filing fee for Conditional Use Permits and move the fee to the Fee Schedule, and clarify Hearing Examiner, City Council, and Planning Board (Commission) roles in Conditional Use processes.

ATTACHMENTS:

Attachment A: Draft Ordinance 983.08

Attachment B: Planning Board minutes of August 5 public hearing

ORDINANCE 983-08

**AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON AMENDING
SULTAN MUNICIPAL CODE SECTION 21.04 PERTAINING TO FEES AND
ADMINISTRATION OF CONDITIONAL USE APPLICATIONS.**

WHEREAS, it is the intent of the City to publish its fees in a Fee Schedule, and remove various fees from the Municipal Code; and

WHEREAS, Sultan Municipal Code Section 21.04.030 contains a codified provision for a filing fee of \$850.00 for a conditional use application; and

WHEREAS, authorization for the City of Sultan Planning Commission has been repealed and authorities for conduct of quasi-judicial hearings has been vested in a Hearing Examiner; and

WHEREAS, Sultan Municipal Code Section 21.04 contains a codified provision stating that the Planning Commission will review and make recommendations to the City Council regarding conditional use applications;

WHEREAS, the City of Sultan Planning Board held a public hearing on this amendment proposal at its regular meeting of August 5, 2008;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN ,
WASHINGTON DO ORDAIN AS FOLLOWS:**

Section 1. The City of Sultan hereby amends Sultan Municipal Code Section 21.04 to: remove the fee reference from the code; delete references to the planning commission and; vest with the hearing examiner all responsibilities previously vested in the planning commission.

Section 2. Sultan Municipal Code is amended as follows:

**Chapter 21.04
CONDITIONAL USE PERMITS**

Sections:

21.04.010 Purpose.

21.04.020 Uses requiring a conditional use permit.

21.04.030 Application – Requirements and fees.

21.04.050 Criteria.

21.04.052 Additional criteria for single-family detached dwelling (clustered).

21.04.054 Additional criteria for duplexes or two-family dwellings.

21.04.060 Expiration and renewal.

21.04.070 Revocation of permit.

21.04.080 Performance bond and other security.

21.04.090 Resubmittal of application.

21.04.010 Purpose.

It is the purpose of this chapter to establish review and permit approval procedures for unusual or unique types of land uses, which, due to their nature, require special consideration of their impact on the neighborhood, and land uses in the vicinity. The ~~uses in approved under the provisions of this chapter may be located in any district by special permission of the planning commission zone districts listing the use as a "Conditional Use" under such conditions as the commission hearing examiner may recommend and the city council shall approve. (Ord. 690-98)~~

21.04.020 Uses requiring a conditional use permit.

The following are the uses which require a conditional use permit:

A. ~~The conditional uses listed in the specified use districts as "Conditional Uses"~~ require a conditional use permit in order to locate and operate in an appropriate zone district within the city.

B. Existing nonconforming uses which wish to expand. (Ord. 690-98)

21.04.030 Application – Requirements and fees.

Application for conditional use permits shall be filed with the planning department on forms prescribed by that office. A filing fee of ~~\$850.00 in the amount set by the Fee Schedule adopted by the City Council~~ shall accompany all applications. ~~The planning commission hearing examiner will review applications for conditional use permits and the recommendations will be passed to the city council for final action. The planning commission hearing examiner may recommend to the city council denial, approval, or approval with conditions.~~ Conditional use applicants must adhere to all applicable public notification requirements. Denial of conditional use permit applications is not appealable. All conditional use permits are subject to design review procedures. (Ord. 690-98)

21.04.050 Criteria.

The following criteria shall apply in granting a conditional use permit:

A. The proposed conditional use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed conditional use or in the district in which the subject property is situated;

B. The proposed conditional use shall meet or exceed the performance standards that are required in the district it will occupy;

C. The proposed conditional use shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design as approved by the design review committee;

D. The proposed conditional use shall be consistent with the goals and policies of the comprehensive land use policy plan;

E. All measures have been taken to minimize the possible adverse impacts, which the proposed use may have on the area in which it is located. (Ord. 690-98)

21.04.052 Additional criteria for single-family detached dwelling (clustered).

The following additional criteria apply to allow single-family detached dwelling(s) (clustered):

A. The density on the property may not be greater than but should match the density for single-family detached dwellings;

B. Where urban density goals are to be achieved, but critical areas can be adequately protected, dimensional requirements for lot size, lot width, front and rear yard setbacks may be decreased by no more than 20 percent;

C. As a result of the design of the subdivision, a minimum of 20 percent of the net land area of continuous, publicly accessible open space such as stream or wetland and associated buffers, a ravine, bluff or other unique topographic feature, or conservation area is preserved;

D. As a result of the dwellings and any subdivision, the availability of housing to all economic segments of the population is increased, and housing density variety is preserved throughout the community. (Ord. 780-02 § 16)

21.04.054 Additional criteria for duplexes or two-family dwellings.

The following additional criteria apply to allow duplexes or two-family dwellings:

A. Only one other duplex or multifamily use may exist within 300 feet of the proposed use and there must be at least a 100-foot separation (building to building) between the uses.

B. The proposed dwelling has been designed to be harmonious with the neighborhood and is constructed to provide the appearance of a single-family unit by, for example, altering the location of the front doors and windows; garages and access to garages; parking; landscaping and fencing; utilities and mailbox locations; building heights consistent with surrounding properties; exterior colors and materials; and differing setbacks, all of which are confirmed by a site plan. (Ord. 780-02 § 17)

21.04.060 Expiration and renewal.

A conditional use permit shall automatically expire one year after a notice of decision approving the permit is issued unless a building permit conforming to plans for which the CUP was granted is obtained within that period of time. A conditional use permit shall automatically expire unless substantial construction of the proposed development is completed within two years from the date a notice of decision approving the permit is issued. ~~The planning commission or city council, on appeal, may authorize longer periods for a conditional use permit if appropriate for the project. The planning commission or city council, on appeal, may grant a single renewal of the conditional use permit if the party seeking the renewal can demonstrate extraordinary circumstances or~~

conditions not known or foreseeable at the time the original application for a conditional use permit was granted, which would not warrant such a renewal. No public hearing is required for a renewal of a conditional use permit. (Ord. 690-98)

21.04.070 Revocation of permit.

A. The ~~planning commission~~ city council may revoke or modify a conditional use permit. Such revocation or modification shall be made on any one or more of the following grounds:

1. That the approval was obtained by deception, fraud, or other intentional and misleading representations;
2. That the use for which such approval was granted has been abandoned;
3. That the use for which such approval was granted has at any time ceased for a period of one year or more;
4. That the permit granted is being exercised contrary to be the terms or conditions of such approval or in violation of any statute, resolution, code, law or regulation; or
5. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety.

B. Any aggrieved party may petition the ~~planning commission~~ city council in writing to initiate revocation or modification proceedings.

C. Before a conditional use permit may be revoked or modified, a public hearing shall be held. Procedures concerning notice, reporting and appeals shall be the same as required by this chapter for the initial consideration of a conditional use permit application. (Ord. 690-98)

21.04.080 Performance bond and other security.

A performance bond or other adequate and appropriate security may be required for any elements of the proposed project which the ~~planning commission~~ hearing examiner or city council, ~~on appeal~~, determines are crucial to the protection of the public welfare. Such bond shall be in an amount equal to 125 percent of the cost of the installation or construction of the applicable improvements. (Ord. 690-98)

21.04.090 Resubmittal of application.

An application for a conditional use permit, which has been denied, may not be resubmitted within six months from the date of ~~planning commission or~~ city council disapproval, ~~whichever is later~~. (Ord. 690-98)

PASSED by the City Council and **APPROVED** by the Mayor the ___th day of _____, 20__.

CITY OF SULTAN

By _____
Carolyn Eslick, Mayor

Attest:

By _____
Laura Koenig, City Clerk

Approved as to form:

By _____
Kathy Hardy, City Attorney

AUGUST 5, 2008 PLANNING BOARD MEETING MINUTES

MEETING CALLED TO ORDER AT 7:04 PM

PLANNING BOARD MEMBERS PRESENT:

**FRANK LINTH
STEVE HARRIS
PAUL MCBRIDE**

CITY STAFF:

**ROBERT MARTIN, DCD
CYD DONK, SECRETARY**

NOT PRESENT:

**KEITH ARNDT
SCOTT ZAFFRAM**

CALL TO ORDER

Meeting called to Order at 7:04 p.m.

PUBLIC COMMENTS

Ron Wiediger, 209 Date Avenue, Sultan. Thanks the members for taking on the positions before them. It is a thankless job and thanks them for making the commitment.

CHANGES TO THE AGENDA

Martin excuses the absences of PB Zaffram & PB Arndt.

Planning Board Minutes for 6.17.08 cannot be approved until PB Zaffram is present since he is the only one from the past Board that can approve the minutes. Defer to next meeting.

Defer Item A-2 Appointment to Term Rotation and defer D-1 Planning Board Education.

Frank Linth accepts the temporary position as Chair.

Moved by PB Harris and seconded by PB McBride. All Ayes to Changes to the Agenda.

PUBLIC HEARING:

SMC 21.04. Martin explains the changes to the SMC Code Sections.

SMC 21.04 Ordinance 938-08 Martin goes over the changes in the CUP Chapter 21.04 included in the packet.

PB Linth opens the Public Hearing. Defers the reading of the Public Hearing process.

Gerry Gibson, 1102 Dyer Road, Sultan, WA 98294 comments that he does not understand all the details of the proposal. It is mind-boggling. Common sense should prevail. Does not know where to start. Obviously "I am not prepared". (Gets his notes). This is regarding the Hearings Examiner, right? I was a proponent of...

Attachment B

PB Linth interrupts Gerry and states that this Hearing is for the CUP and the H.E. is the next one.

Staff asks Gerry to gather his notes and hold them to the next Hearing in regards to the H.E. Gerry agrees.

Motion to close Public Hearing PB Harris and seconded by PB McBride. All Ayes.

PB Linth opens the Public Hearing for SMC 2.26.

Hand out from Deborah Knight showing key points and proposed changes. Martin goes over the H.E. SMC Section 2.26. Changes as noted in Deborah's hand out:

Proposed Changes:

2.26.090 Duties of the Examiner

2.26.120 Examiner's Decision

2.26.140 Appeals from Examiner's Decision

2.26.150 Council Consideration

2.26.160 Effect of Council Decision

Sections 2.26.140, 2.26.150, and 2.26.160 have been removed from the SMC 2.26. 1 Section has been added: 2.26.190 Variance Criteria.

No Section 2.26.170 seen in the Ordinance (this may have been repealed in the past and will remain empty/blank).

PB Harris has a question on SMC 2.26.070 Conflict of interest. How do you know if it is a conflict of interest? Martin states that it is in his role as H.E. to disclose himself if there is/will be a conflict of interest. PB Linth also agrees that the conflict of interest should be addressed in more detail.

PB Harris 2.26.120 questions the 10-working day notice requirement. What happens if it is on the 11th day. Martin discusses scenarios of missing the 10-day requirement.

PB Linth states that Martin with discussion on Ordinance XXX-08. PB Linth goes over the rules and procedures to open the Hearing. Floor is now open for comments from the audience.

Gerry Gibson, 1102 Dyer Road, Sultan. Came from the Night Out in Gold Bar. Is 100% behind accepting the Hearings Examiner's Decisions? Most of Gerry's concerns were with the LOS for Police. He believes we need a local police department. Retired Federal Law Enforcement Officer. Block Watch Captain and promotes this atmosphere

and that's why he was up in Gold Bar. Gerry goes over his versions of the H.E. recommendation being ignored by the City Council. Gerry said the City breaks their own laws. He agrees with the changes to the H.E. SMC . He urges the PB to read the yearly recommendation made by the H.E. to the City Council. Gerry states that the H.E. expresses his concerns about the continuity of the SMC Codes made in the H.E. Yearly report. Please read it.

No added comments from the public.

PB Harris states that the H.E. should go by the laws and codes.

PB McBride thanks Gerry for coming and looks forward to reading the H.E. Yearly Report that he mentioned.

PB Linth states to the audience that they are doing the housekeeping on the Code.

Gerry Gibson believes the H,E. process is legitimate. He believes that Councilman Slawson (?) went to a conference where they should follow what the H.E. Recommends, but Gerry's recollection of the H.E. is that the H.E. bends to what the Council wants. The H.E. does not stand on his own decision.

PB Harris motions to close the Hearing PB McBride seconds. All Ayes.

PB Linth proposal to amend SMC21.04 PB Harris moves to forward to the Council for recommendations. PB McBride seconds the motion. All Ayes.

PB Linth proposal to forward recommendations to City Council. PB Harris moves to forward to the Council for recommendations. PB McBride seconds. All Ayes.

PB Linth asks if they should motion to excuse the 2 members absent. Clerk notes it was taken care of in the beginning of the meeting.

ACTION ITEMS:

A-1 and A-2 have been deferred to the next Meeting of 8.19.08

DISCUSSION ITEMS:

Moves to Item D-2 Comp Plan Docket. Martin goes over the Docket Agenda with the PB Members.

Mayor Eslick interrupts the meeting to welcome and thank the members for coming.

Item 1 - 2 areas on the City Zoning Map appear to have not been zoned.. "unzoned properties". The City needs to make a Public Ownership Zone. Parks and school districts should be included in these zones.

Item 2 – Economic Development perspectives – still living on the docket. Has not been addressed to date due to the GHMB findings. This is being put back on the list of things to do.

Item 3 – Formatting of the Plan. Goals, Inventories, Analysis, Goals, Objectives, and Policies. The Sultan Comprehensive Plan has the Goals woven throughout the Plan. The Plan is not easy to read. It should be reformatted to make it easier to understand.

This is a short list, there will be a bigger list that goes to the Council. The docketing discussion will go to the Council on the August 14th Council Meeting.

PB Linth has a question. He understands why the Comp Plan needs to be addressed yearly. Martin states that if someone wanted to bring up an issue in September it would have to roll over to the next year docketing plan. By State Law the City can only update the Comp Plan 1 time a year. PB Linth asks about the start and stop dates. Martin will get that information to him tomorrow. There is a mandatory update cycle in 2011. It opens up the plan again and really looks at the policies again.

No more questions from the Board.

PUBLIC COMMENTS ON AGENDA ITEMS ONLY

Gerry Gibson, Comp Plan Docket is very near and dear to his heart. Gerry explains his attachment to the Comp plan Docket. Gerry gives the history about the petition for the Dyer/Skywall Connection. It took 2-1/2 years to get this petition through.

PB Harris asks that Gerry did not want the connection of the two roads. Gerry states no he did not and the plan has been deleted from the Comp Plan.

PLANNING BOARD COMMENTS

PB Harris believes that they can keep moving forward.

PB McBride agrees with Harris.

Councilman Wiediger thanks the PB Members for being here and that it will be a pleasure to work with them all.

PB Linth thanks Ron and states that he understands that the PB will not be shaving their heads....

PB Linth asks Martin if there is anything he wants to add to this meeting before we close.

PB Harris asks when do we need comments to him regarding the Comp Plan docket. Martin says we need them now. PB Harris asks about rezones, if that is the one that is still alive. Martin states that it has been discussed that the Highway corridor be rezoned

and some sort of incentive given to developers for developing along the highway.
Martin discusses the proposals.

Gerry Gibson. Bart Dalmasso's first amendment to the Comp Plan. Nothing has ever happened with Bart's request. PB Linth states that we should bring it up to the City and see what happened with Bart's request.

PB Harris code inconsistencies and code clean up should be made.

ADJOURNMENT

On a motion by PB Harris to adjourn, seconded by PB McBride the meeting was adjourned at 8:25 p.m. All Ayes.